

REMARKS

Applicant has carefully reviewed the Application in light of the final Office Action mailed September 12, 2005. At the time of the Final Office Action, Claims 1-6 and 8-18 were pending in the Application. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 103 Rejection

The Examiner rejects Claims 1-6 and 8-18 under 35 U.S.C. §103(a), as being unpatentable by U.S. Patent No. 5,754,768 issued to Brech, et al. (hereinafter “*Brech*”) in view of U.S. Patent No. 5,892,924 issued to Lyon, et al. (hereinafter “*Lyon*”). This rejection is respectfully traversed for the following reasons.

As a preliminary matter, Applicant would like to respectfully acknowledge the Examiner’s diligence in this Office Action. Applicant understands the Examiner’s well-reasoned argument, which has used *Lyon* and *Brech* to support the §103 rejection. In a similar vein, Applicant wishes to express his gratitude to the Examiner for his precision in identifying the relevant portions of each of the references. Due to the Examiner’s demonstrable equanimity, Applicant is imbued with a sense of optimism that a mutually agreeable resolution can be reached in this case. The current proposed combination appears logical, but there are several inherent flaws in *Lyon*, which are highlighted below for the Examiner’s convenience.

Applicant respectfully reminds the Examiner that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation; either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the prior reference (or references when combined) must teach or suggest all of the claim limitations.¹

The rejected claims are patentable over the art of record based on at least the third criterion of obviousness: none of the references alone or in combination teach, suggest, or disclose each and every claim limitation of the Independent Claims. For example,

¹ See M.P.E.P. §2142-43.

Independent Claim 1 recites “*recording said first routing treatment, wherein said step of recording comprises building an entry in a flow cache.*”

Only *Lyon* provides relevant disclosure of such an architecture, which would ostensibly offer this capability. Turning to *Lyon*, *Lyon* offers an architecture that appears to use a cache, but a cache that does not operate in a manner as circumscribed by the present claims. For example, the architecture of *Lyon* fails to actually build an entry in a cache. To understand why this important, the Examiner should appreciate the significance of caches in most networking arrangements. Caches are generally used for temporary storage of data, which can be periodically or systematically updated. In conventional routing, a session ID is simply recorded such that similar packets can subsequently be routed together. Flow caches are normally populated by dumping a routing table into the flow cache. Such is not the case here. Instead, the present invention is able to record the routing treatment directly in the flow cache. There is nothing in any other reference that provides this disclosure. Applicant compels the Examiner to proffer any Prior Art that offers such a functionality.

The *Brech-Lyon* combination is flawed in that there is simply no disclosure of any flow cache in which an entry is built such that future redundant processing is effectively avoided. Because the references lack such a limitation, Independent Claim 1 is allowable over the proposed combinations.

In addition, Independent Claim 14 recites a similar (but not an identical) limitation and, thus, is also allowable over this combination using a similar rationale. Additionally, using analogous reasoning, the corresponding dependent claims of these Independent Claims are also allowable over the references of record.

Double Patenting Rejection

Claims 1-6 and 8-18 of the present application are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 and 16-20 of U.S. Patent No. 6,590,894 since the claims, if allowed, would improperly extend the “right to exclude” already granted in the patent. Applicants have submitted a Terminal Disclaimer, which is appended to this response, in order to overcome the nonstatutory double patenting rejection. Applicants respectfully request that the rejection be withdrawn.

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Filing of the Terminal Disclaimer should not be construed as an agreement with or an acquiescence to the propriety thereof. Applicants have only filed such an item in order to advance prosecution in this case. Applicants reserve the right to comment on the appropriateness of the Terminal Disclaimer at a future time, should Applicants deem it appropriate to do so.

The claims are in condition for immediate allowance. Notice to this effect is respectfully requested in the form of a full allowance of the pending claims.

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CONCLUSION

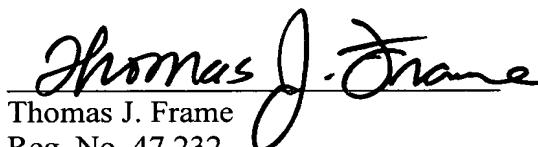
Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

An amount of \$130.00 is required to satisfy the fee under 37 C.F.R. §1.20(d). Attached herewith is a check in the amount of \$130.00 to satisfy the terminal disclaimer fee.

The Commissioner is hereby authorized to charge additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney, Thomas J. Frame, at (214) 953-6675.

Respectfully submitted,
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